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Summary of other stakeholders' submissions on South Africa*

Report of the Office of the United Nations High Commissioner for Human Rights

I. Background

1. The present report was prepared pursuant to Human Rights Council resolutions 5/1 and 16/21, taking into consideration the periodicity of the universal periodic review. It is a summary of 30 stakeholders' submissions[1] to the universal periodic review, presented in a summarized manner owing to word-limit constraints. A separate section is provided for contributions by the national human rights institution that is accredited in full compliance with the Paris Principles.

II. Information provided by the national human rights institution of the State under review accredited in full compliance with the Paris Principles

2. Relating to recommendations on the ratification of relevant international instruments,[2] the South African Human Rights Commission (SAHRC) indicated that the Government had ratified ICESCR in 2015, and ILO Convention (No.189) on Decent Work for Domestic Workers in 2013.[3]

3. When ratifying ICESCR, the Government had made a declaration indicating that the right to education would be given progressive effect, within the framework of its National education policy and available resources which was in contradiction to the Constitution and Constitutional Court judgements.[4]

* The present document was not edited before being sent to United Nations translation services.

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4. The Government should respond to the request of the Special Rapporteur on racism and xenophobia to visit the country.[5]

5. Regarding recommendations from 2012 to capacitate the Department of Women, Children and Persons with Disabilities (DWCPD),[6] following the 2014 general elections the DWCPD had been disbanded. As a result, the women's portfolio shifted to a new ministry within the Presidency and both the children's and disability portfolios to the Department of Social Development.[7] The Government should develop an independent child's rights monitoring mechanism and allocate financial resources to establish a monitoring mechanism in accordance with the Convention on the Rights of Persons with Disabilities.[8]

6. Regarding recommendations relating to the rights of LGBTI persons,[9] the need for legislation addressing hate crimes was reiterated and the critical importance of the public's full participation in the development of such legislation emphasized.[10]

7. Despite accepted recommendations[11] on the treatment of migrants, refugees and asylum seekers, concern was expressed that negative attitudes towards these groups, violence and xenophobia remained a significant challenge.[12] Violent attacks had once again been witnessed in 2015 against foreign nationals in the country's *KwaZulu Natal* province. Despite guarantees of inter-ministerial coordination and rapid response mechanisms following the outbreak of violence in 2008, these were not sufficiently operationalised, and the response to the violence in 2015 was criticised as slow and inefficient. SAHRC's preliminary investigation into the 2015 violence indicated the need for educational initiatives and collective ownership for social cohesion.[13]

8. Noting the Government has released the draft National Action Plan to combat Racism, Racial Discrimination, Xenophobia and Related Intolerance as well as a Green Paper on International Migration, SAHRC stressed the importance of expediting legislative processes in this regard.[14]

9. Regarding the recommendation to prohibit corporal punishment,[15] common law continued to permit its practice in the home.[16] Despite legislation criminalising corporal punishment in schools, the practice remained prevalent in schools across the country.[17] The Government should: establish a national protocol for schools; and criminalise the act of corporal punishment in the home.[18]

10. Monitoring activities in the Lindela Repatriation Centre revealed systemic issues, including: allegations of abuse and corruption; the use of isolation; overcrowding; detention of unaccompanied children; continued detention of undocumented migrants beyond the prescribed periods;[19] and the lack of provision for tuberculosis testing and isolation of those infected and of voluntary counselling and testing for HIV/AIDS.[20] The Government needed to urgently address the challenges which persist at the repatriation centre.[21]

11. Regarding recommendations on access to justice,[22] SAHRC noted that numerous barriers impeded the full exercise of the right to equal access to justice. The Government should explore appropriate alternate access to justice services for communities where access to the courts were at a vast geographical distance and introduce public education initiatives on the rights of access to justice, particularly at the rural level.[23]

12. Noting the numerous recommendations issued on the right to education,[24] SAHRC indicated that access to education remained a significant challenge and was characterised by high drop-out rates, weak infrastructure, poor quality of education and the inefficient usage of resources, particularly in rural areas.[25] SAHRC's findings indicated that schools experienced: inadequate water and sanitation facilities; lack of learning materials; and high rates of absenteeism due to children having to travel long distances on foot. Additionally, children with disabilities faced numerous barriers. The Government should urgently put measures in place to address these concerns in line with recommendations issued in

SAHRC's reports.[26] Given the high prevalence of discrimination at universities, measures aimed at dismantling inherent inequalities between historically white and black universities should be implemented.[27]

13. The majority of the population depended on state healthcare, where the quality and availability of services varied widely, particularly in the rural areas.[28] The Department of Health's Strategic Plan 2014/15 – 2018/9 envisaged that the National Health Insurance Bill would only be enacted in 2018/19 and would be gradually phased-in. The Government should put interim measures in place to address the inequalities in access to healthcare.[29]

14. SAHRC reported that statistics on persons with disabilities had been inconsistent and contradictory. The Government should conduct an extensive, statistical analysis on the prevalence of disability in the country.[30]

15. SAHRC noted that several complaints alleging the human rights violations of indigenous communities were received, including violations of their rights to equality, language, education and land redistribution; and the lack of recognition of the indigenous communities and their respective leadership.[31]

III. Information provided by other stakeholders

A. Scope of international obligations[32] and cooperation with international human rights mechanisms and bodies[33]

16. South Africa was urged to become a party to additional human rights instruments[34] including: OP-CAT[35] and establish a system to monitor all places of detention;[36] ICRMW,[37] ICPPED;[38] OP-ICESCR;[39] OP-CRC-IC;[40] the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.[41]

17. Indigenous1893 recommended inviting the Special Rapporteur on indigenous peoples to visit the country.[42]

B. National human rights framework[43]

18. JS16 recommended that South Africa incorporate the results of the universal periodic review into its human rights action plans.[44] Edmund Rice International (ERI) recommended ensuring the effective implementation of UPR recommendations through the establishment of a permanent governmental mechanism to liaise with relevant ministries and consult with Civil Society.[45]

19. Oceania HumanRights recommended reporting during the third cycle on progress achieved on the Sustainable Development Goals.[46]

20. JS11 noted that the functions relating to children of the DWCPD had been moved to the Department of Social Development indicating that the Department had relatively weak political authority[47] and that political leadership for realising children's rights was poor. Civil Society Organisations were excluded from many of these forums.[48]

C. Implementation of international human rights obligations, taking into account applicable international humanitarian law

1. Cross cutting issues

Equality and non-discrimination[49]

21. JS2 highlighted the situation of coloured people, which comprises mixed-race individuals and are estimated at about nine percent of the population[50] whose treatment before and during apartheid created a legacy of racial discrimination that persisted.[51] After the end of apartheid, a policy of affirmative action in employment, business and land ownership aimed at correcting past injustices was proposed.[52] In practice, affirmative action law and policy was applied in a manner that disadvantaged coloureds.[53] Steps should be taken to eliminate such discriminatory treatment through reforming the use of "target" percentages in employment plans, investigating discrimination in subsidized housing applications, and ensuring equal access to state media.[54]

22. JS1 noted that in 2015, there was another spike in attacks against foreigners and at least 6 migrants were killed. Concern was raised regarding statements by high profile individuals which some felt amounted to incitement to hatred and violence.[55] Regarding such violence, African Policing Civilian Oversight Forum (APCOF) remained concerned by ongoing incidents of violence against non-nationals and at continued problematic police responses.[56]

23. JS1 referred to the "Operation Fiela" launched in 2015 purportedly aimed at combatting crime. Under this operation, police and members of the South African National Defence Force carried out raids and mass arrests of individuals. The areas raided were those perceived as high crime areas which were also areas with high numbers of foreigners.[57]

24. JS1 recommended sending a clear message that xenophobic attacks will not be tolerated, including by investigating cases of human rights violations and incitement to violence against foreigners and by bringing all perpetrators to justice.[58] Scalabrini Centre of Cape Town (SCCT) recommended combating xenophobia by addressing beliefs and attitudes within State institutions.[59]

25. JI1 stated that an amendment to the Births and Deaths Registration Act imposed additional requirements on birth registrations after 30 days, making these more difficult to access. Children who experienced higher levels of social exclusion would be disadvantaged by these stricter requirements, particularly children in rural areas, and orphaned and abandoned children.[60] Additionally, children born to undocumented migrant women were at serious risk of becoming stateless.[61] The Dullah Omar Institute (DOI) recommended amending the law to remove the penalties and proof of payment for late registration and the requirements that both foreign national parents produce proof of lawful residence.[62]

26. JS3 noted that violence against transgender and intersex persons was underpinned by societal stigma;[63] and that they faced obstacles and discrimination when attempting to alter their legal sex description. Human rights violations experienced by intersex children due to non-consensual treatments were highlighted.[64] JS3 recommended public condemnation of all forms of transphobic and intersexphobic violence; and the enactment of protective legislation, regulations and policies in the spheres of crime prevention, education and access to healthcare.[65]

Development, environment and business and human rights[66]

27. JS12 noted that the Mineral and Petroleum Resources Development Act, providing mechanisms which imposed on extractive companies minimum standards in relation to

employment, housing and community development, needed to be restructured and redirected.[67] An assessment showed a general lack of implementation of the social and labour plans of companies, lack of integration with local planning processes and very little impact at a local level.[68]

28. JS14 stated that basic information essential to ensure informed environmental decision-making and hold mines accountable was not publicly available and could only be accessed through a seriously-flawed access to information request procedure.[69] Additionally, public consultation processes rarely met the Constitutional Court's and international standards.[70]

29. JS14 highlighted concerns that mines continued to drain and pollute water resources;[71] and that mining rights holders had the right to exclude other land uses.[72] This often entailed restricting access to land that had been used for agriculture, housing and other purposes, depriving communities, particularly in rural areas, of the use of their land, and their livelihoods.[73]

30. JS14 urged: prohibiting mining in areas and ways that would violate human rights or cause substantial harm to the environment on which communities depend; holding mining companies accountable for unlawful activities through a comprehensive and transparent compliance and enforcement programme;[74] guaranteeing access to information and meaningful public participation in decision-making concerning mining approvals and regulation; effectively enforcing environmental laws relevant to mining.[75]

2. Civil and Political Rights

Right to life, liberty and security of the person[76]

31. The Legal Resources Centre (LRC) indicated that urgent and substantial redress was needed within the South African Police Service (SAPS) as a result of, among others, multiple incidents of the excessive use of force.[77]

32. LRC recalled the deaths of 44 persons in Marikana in 2012, the majority of who were protesting mineworkers, and noted the findings of the Marikana Commission of Inquiry[78] indicating that the full implementation of the recommendations of the Commission, particularly those in relation to the liability of individual SAPS shooters, had been delayed.[79] LRC urged ensuring that: automatic firearms and live ammunition were never used in the policing of assemblies;[80] implementing extensive training programmes within the SAPS on human rights standards on the use of force; and fully implementing the Marikana Commission's recommendations as a matter of urgency.[81] Noting that the Commission of Inquiry had highlighted the company's failure to comply with the housing obligations under the Social and Labour Plan, JS12 indicated that the failure of compliance with the plan and the lack of remedy after four years for those affected, was not being addressed.[82]

33. Regarding recommendations to criminalize torture,[83] APCOF welcomed the enactment of the Prevention of Combating and Torture of Persons Act of 2013.[84] It was concerned, however, at the low number of prosecutions against law enforcement officials, particularly given that allegations of torture had risen since South Africa's second UPR.[85] APCOF encouraged South Africa to continue strengthening the capacity of the Independent Police Investigative Directorate, the Judicial Inspectorate of Correctional Services, and the National Prosecuting Authority to ensure all allegations of torture were investigated in a timely and comprehensive manner and perpetrators prosecuted under the Act.[86]

34. DOI regretted that the Torture Act did not contain provisions that would allow victims of torture to seek redress other than through prohibitively expensive civil proceedings.[87] The Centre for the Study of Violence (CSVR) recommended that South

Africa: promulgate regulations to operationalise the Torture Act which would give guidance on procedures that prioritise torture victims' need for redress; and ensure the availability and accessibility of rehabilitation services to victims of torture and ill-treatment.[88]

35. JS8 stated that prisons and other detention facilities remained extremely overcrowded, particularly remand detention facilities and that inhumane conditions persisted.[89] Sexual violence remained a scourge in prisons.[90] DOI noted that although the legal framework no longer permitted solitary confinement, segregation had become a disguised form of solitary confinement.[91] JS5 observed that though the Department of Correctional Services had developed an HIV/AIDS policy and strategy, prisons did not provide antiretroviral treatment and other treatment and condoms routinely.[92]

36. JS8 recommended that South Africa: commit the requisite resources to ensure the full and proper implementation of its Policy to Address Sexual Abuse of Inmates, and address abuse in police holding cells and Lindela; take immediate measures to address the underlying drivers of overcrowding in prisons and detention centres; and implement its minimum standards and guidelines for safe and healthy prisons.[93]

37. JS8 indicated that the prison oversight mechanism, the Judicial Inspectorate for Correctional Services, suffered from an inadequate legal definition of its functions and powers and a lack of autonomy.[94] Additionally, it did not have the power to inspect other detention facilities, such as police holding cells and deportation centres.[95]

Administration of justice, including impunity, and the rule of law[96]

38. JS1 stated that the legal profession had been criticised as unrepresentative of the majority of the people in the country noting the low numbers of women and the sparsity of lawyers in townships and rural areas[97] and recommended continued steps to ensure the legal profession was more representative.[98]

39. JS4 indicated that despite the creation of Equality Courts, persons with disabilities continued to face a number of barriers.[99] JS4 recommended that: Equality Courts be monitored and provided with the resources required to function more effectively; and traditional leaders administering justice in the traditional courts and persons with disabilities receive training on disability rights and relevant legislation.[100]

40. JS9 noted that SAHRC had expressed disappointment that the recommendation on the traditional courts bill had not been supported[101] and referred to issues raised regarding the bill including the possible extension of power of traditional leaders and concerns by women's groups.[102] JS9 stated that if the bill purports to address "abuses" of traditional courts, notably related to discrimination against women, it should provide for a better understanding of the issues.[103]

41. CSVR recommended prompt implementation of the Truth and Reconciliation Commission's recommendations for reparation for apartheid era torture victims.[104]

42. JS1 indicated that South Africa's response to the court order for the arrest of the President of a third country whilst he was visiting the country in 2015, brought into question its commitment to the promotion and protection of the right of access to justice and to an effective remedy.[105]

Fundamental freedoms[106]

43. LRC noted reports of state surveillance of prominent investigative journalists, which seriously inhibited the media's ability to function freely and independently.[107] LRC recommended urgently investigating and prosecuting abuses of domestic and international law in intelligence agencies.[108]

44. JS13 noted instances of journalists being harassed by state actors including arrests for coverage of police action or malicious attacks whilst covering stories.[109]

45. JS13 reported that in 2016, the South African Broadcasting Corporation ("SABC") announced that it would no longer provide coverage of public protests and dismissed eight journalists for contravening the order against covering such protests.[110] LRC indicated that South Africa should guarantee the independence of the SABC.[111] JS16 recommended that South Africa ensure that: journalists and writers, especially at the SABC, can work freely and without fear of retribution;[112] and that civil society, journalists and human rights defenders be provided with a safe environment to carry out their work.[113]

46. JS16 and JS15 recalled that the recommendations received during the previous universal periodic review which addressed the Protection of State Information Bill (POSIB) were noted.[114] LRC stated that since the previous review, POSIB had been amended and improved but that key substantive concerns had still not been addressed.[115] LRC urged South Africa to establish a drafting committee, comprising members of civil society organisations, to revise POSIB in line with domestic and international law;[116] and refer the final text of POSIB to the Constitutional Court to consider the constitutionality thereof.[117]

47. JS13 raised concerns regarding the Protection of Constitutional Democracy Against Terrorist and Related Activities Act[118] and the National Key Points Act.[119] JS16 noted that despite its glaring legal deficits, including the criminalization of divulging information considered compromising to national security, the Key Points Act adopted during the apartheid era, had not been repealed or sufficiently amended.[120]

48. LRC noted a trend to regulate the internet, taking note in particular of the draft Online Regulation Policy and the Cybercrimes and Cybersecurity Bill.[121] JS13 recommended amending the Bill so that it achieves the protections sought taking into consideration the freedom of expression clauses in the Constitution and protection of the public interest.[122]

49. JS16 indicated that to register an NGO must submit all required documents to the National Directorate of Non Profit Organisations in Pretoria. Although an online submission process had been established, concerns remained about this procedure, which privileged NGOs in the capital and its surrounding cities that have direct access to the directorate.[123]

50. JS16 noted that during the previous UPR, South Africa did not receive any specific recommendations on the right to peaceful assembly[124] highlighting restrictions on protests through the application of the Gatherings Act by local authorities[125] and the use of excessive and even lethal force to disperse protests.[126]

Right to privacy

51. JS15 raised concerns about the low burden of proof required by legislation for covert surveillance[127] and recommended that South Africa: review Regulation of Interception of Communications and the Provision of Communication-Related Information Act to ensure that it is consistent with the Constitution;[128] refrain from engaging in mass surveillance; and increase the transparency of its surveillance policy.[129]

3. Economic, Social and Cultural Rights

Right to work and to just and favourable conditions of work[130]

52. Regarding accepted recommendations,[131] JS10 indicated that employment opportunities were extremely limited outside of urban centres, particularly in the former homelands (Bantustans). There was also limited meaningful engagement by the

Government with rural communities concerning community-led development initiatives. A lack of jobs in rural areas led to adult male and youth labour migration to urban centres, leaving families, headed by the elderly, mothers, or even children, to struggle on their own in rural homes.[132]

Right to an adequate standard of living[133]

53. CALS indicated that despite the efforts to address poverty and social inequality for the past 22 years of democracy, South Africa remained a poverty stricken country with high levels of inequality.[134] JS11 noted that nearly 56% of children in South Africa lived in poverty, and 32% of all children lived in households where there was no employed adult. 43% of female-headed households did not include a single employed person. The decrease in the proportion of children living in poverty over the past decade was attributed primarily to the availability of social grants, and not declining unemployment rates. Despite a decrease in absolute income poverty, income inequality had increased.[135] JS10 highlighted that the child support grants were often used to support not only the intended child, but also other family members without an income or other social grants.[136]

54. Regarding an accepted recommendation,[137] JS10 indicated that food and nutrition insecurity remained very common in both urban and rural settings.[138] The Government must increase its support of and the market opportunities for small-scale farmers. The current concentration of high-value food production in a small number of large transnational corporations maintained the poverty cycle of smallholders and the cheap supply of empty calories that was causing serious health problems.[139]

55. ERI referred to reports that half of the urban population lived in townships or informal housing, 19% of the population in South Africa still lived without access to improved drinking-water sources, and 34% had no access to improved sanitation facilities.[140] CALS proposed the State's compliance at all spheres of Government with its constitutional obligation in the provision of housing, water and sanitation.[141]

Right to health[142]

56. JS5 highlighted that with 6 million people living with HIV in 2015, South Africa remained at the epicentre of the HIV/AIDS epidemic. Despite efforts made, the scourge of the HIV epidemic was far from over, with more than 3 million persons living with HIV/AIDS having no access to antiretroviral drugs.[143] HIV had been identified as the leading cause of death among women of reproductive age.[144]

57. JS5 recommended: increasing sensitization efforts on HIV/AIDS prevention, especially among young women, and on changing social attitudes on stigmatisation of persons living with HIV/AIDS; ensuring that counselling and testing facilities were available in all public hospitals, clinics and primary healthcare facilities throughout the country, especially in rural areas; expanding the anti-retroviral treatment programme to ensure that all persons living with HIV have access to antiretroviral drugs.[145]

58. Regarding relevant recommendations,[146] DOI noted that despite efforts made, infant and maternal mortality rates remained alarmingly high. South Africa was one of the countries that failed to meet MDGs 4 and 5[147] and must redouble its efforts in addressing maternal deaths if it was to meet the target under SDGs 3 by 2030.[148] ADF International made related observations.[149] JS11 recommended that South Africa: take action and implement the recommendations made by the ministerial committees on child, neonatal and maternal morbidity and mortality; and make greater efforts to develop and support the functioning of community level maternal and child health workers.[150]

59. JS11 stated that child health continued to be compromised by poverty, food insecurity, inadequate housing, water and sanitation. A clear multi-sectoral implementation plan with interim targets and a monitoring and reporting system was required.[151]

60. JS5 noted statistics indicating that 18% of school children reported having gotten pregnant before 19 years of age and one in seven having contracted HIV/AIDS in school.[152] The Department of Education should implement a comprehensive sexual and reproductive health education framework as part of the school curriculum for teenagers.[153] JS5 stated that the Government should increase sensitization on the dangers of unsafe abortions, tackle the stigma associated with abortion and empower women and girls by informing them of their right to seek and receive reproductive healthcare services, including abortion, through public advocacy and education programmes.[154]

61. JS3 noted that intersex and transgender persons had to navigate a healthcare system that is discriminatory and unresponsive to their healthcare needs.[155]

62. Regarding an accepted recommendation,[156] SCCT indicated that while national health policy guaranteed access and treatment at public sector hospitals for foreign nationals, serious challenges remained in their implementation.[157] SCCT recommended ensuring that health care providers, particularly 'front line' staff were aware of refugee rights and vulnerabilities.[158]

Right to education[159]

63. ERI observed that South Africa spent an average of 20% of its national budget on education, spending more on education than any other African country. However, the majority of school children did not enjoy a quality education.[160] It also noted deficiencies with regard to electricity and water supply; and sanitation.[161] Students that learn in a language other than their home language had difficulties at school.[162] Schools that served predominantly white learners under apartheid remained functional while the vast majority of those which served black learners remained dysfunctional.[163] A significant number of pupils dropped out of school before they reached Matriculation level.[164]

64. ERI recommended that South Africa: conduct a nationwide audit of the educational system's budgeting and spending to ensure that funds are invested effectively and responsibly; establish a working group to identify reasons why school drop-out levels were so high; and enforce the infrastructure stipulations of the South African School Act.[165] JS11 indicated that South Africa should confer authority on the Special Investigation Unit to investigate maladministration, unlawful appropriation or expenditure of public funds, and the need for criminal or civil proceedings.[166] The Good Group recommended creating national human rights action plans for human rights education.[167]

65. CSVR noted that South Africa had grappled with violent tertiary education protests where students have staged sit-ins and demonstrations against increases in University fees.[168] CSVR recommended facilitating access to secondary and tertiary education for the most marginalised groups; and ensuring that tertiary education was affordable.[169]

4. Rights of specific persons or groups

Women[170]

66. Regarding recommendation 124.48,[171] DOI noted the Women's Empowerment and Gender Equality Bill had been withdrawn.[172] South Africa should pursue legislative measures to address gaps in the normative framework for women's rights and gender equality.[173]

67. JS5 indicated that violence suffered by women in South Africa was often brutal, particularly due to the multiple and intersecting forms of discrimination faced by women.[174] CSVR indicated that a lack of understanding of the extent of the problem of gender-based violence (GBV) and inaccurate statistics continued to inhibit effective responses.[175]

68. ERI stated that South Africa not only had extremely high rates of rape, but was also known for reports of 'corrective rape', especially against lesbian women. However, as these hate crimes were not yet recognized as unique crimes under the law, there were no reliable figures about the extent of this issue.[176] JS5 noted that many lesbians and bisexual women experienced physical, sexual and social violence and discrimination in multiple spaces.[177]

69. Regarding relevant recommendations,[178] JS6 indicated that the implementation of the Domestic Violence Act had been problematic since its inception.[179] ERI noted that police reportedly often refused to open cases of domestic abuse.[180] Similarly, relating to accepted recommendations,[181] JS6 indicated that despite efforts made, studies continued to note persistent problems with the police management of cases of sexual offences including refusal to accept rape complaints.[182]

70. ERI indicated that in 2013, the Government had acknowledged the need to re-establish sexual offences court but noted the low conviction rate in these courts.[183] DOI stated that steps to increase coverage of Thuthuzela Care Centres were bedevilled by the failure to commit state resources to their implementation.[184] JS6 noted that the overwhelming majority of state social services, including victim support services and shelters, were delivered by NGOs and that the relationship between the state and NGOs was characterised by an exploitative reliance on the commitment of NGOs, and their ability to raise dwindling donor funds.[185]

71. CSVR recommended that South Africa: cost and budget for GBV related legislation to address implementation challenges.[186] JS5 recommended that law enforcement agencies, the national prosecuting authority and judicial officers receive adequate training on how to diligently investigate and prosecute cases of gender-based violence.[187] ERI recommended that the government: improve the functioning of current sexual offence courts, and establish new courts throughout the country; establish a working group that ensures police are fulfilling their duties as stipulated in the Domestic Violence Act and the Sexual Offences Act; implement recommendation 124.62[188] accepted in the previous UPR Cycle "to put in place stronger mechanisms to protect women and girls against gender-based violence and provide redress".[189]

72. JS5 noted that sex work continued to be criminalised which made it difficult for sex workers to access essential services leading to a disproportionate increase in HIV infection rates among sex workers and in other forms of violence.[190] JS5 indicated that police should take measures to protect sex workers against violence.[191] JS6 recommended that South Africa accelerate the legal framework to decriminalise sex work.[192]

73. JS6 noted that the Children's Act of 2005 criminalises virginity testing only of girls under the age of 16 and recommended that the government pass legislation to expressly ban the practice for all women.[193]

Children[194]

74. JS6 indicated that the fragmented approach to regulating Ukuthwala failed to appropriately address the relationship between this practice and forced and child marriages, noting that the practice also affected adult women. The Government must set 18 as the minimum age of marriage without exception.[195] JS11 recommended that South Africa define "forced marriage", "child marriage", and "Ukuthwala", and criminalise all persons involved in forcing a person into marriage.[196]

75. According to JS11, despite a strong legal framework, violence against children continued to be widespread with extremely high reported rates of sexual violence and one third of children reporting physical violence.[197]

76. JS11 indicated that corporal punishment was still largely socially accepted and legally permitted in the home.[198] JS11 recommended implementing large-scale evidence-based programmes to support non-violent parenting and shift social norms that support violent discipline.[199]

Persons with disabilities[200]

77. JS4 indicated that the recommendation on disabilities[201] had not been successfully implemented observing that while the Government had done much in terms of creating the relevant legislative and policy framework there was concern about the implementation and monitoring of these policies as well as insufficient attention being paid to the ability of persons with disabilities to effectively enjoy those rights. It noted that non-conducive environments in psychiatric hospitals posed a serious concern for human rights.[202] Rural areas were hit the hardest by the slow implementation of policies.[203]

78. JS11 recommended that the government develop a single piece of legislation to specify, coordinate and govern services for children with disabilities and developmental delays.[204]

79. JS4 also noted that up to 600 000 children with disabilities were on waiting lists to be placed in a school or institution, many children with disabilities had to attend special schools far away from their homes and schools continued to lack adequate support staff.[205]

Migrants, refugees and asylum seekers[206]

80. CSVR noted the situation of undocumented migrants who continued to be exploited, sometimes undertaking work without remuneration. Access to healthcare is a challenge. CSVR recommended developing and adopting policies and programmes designed to promote the integration of migrants into society and the respect for their rights.[207]

81. SCCT noted concerns regarding an amendment to the Refugee Act, including: revised definitions of what constitutes a dependent; and of asylum seekers' right to work.[208]

82. SCCT indicated that the procedures for recognising the status of refugees remained problematic highlighting that under-resourcing and insufficient administrative capacity were leading to backlogs and poor status determination decisions. The integrity of the system had been undermined by the closure of Refugee Reception Offices in the major urban centres.[209] SCCT recommended that South Africa: provide adequate resource and training to refugee status determination officers; develop rigorous methods and systems to combat endemic corruption present in all components of the asylum system; open and maintain fully functional Offices in metropolitan areas.[210] ERI recommended reviewing administration procedures to address the backlog of permit applications.[211]

Stateless persons[212]

83. JS7 noted that at present South Africa does not have a dedicated mechanism to identify statelessness.[213] JS7 recommended acceding to relevant international instruments to ensure: establishing a statelessness determination procedure to identify and protect stateless persons; providing legal immigration status to stateless persons; facilitating naturalisation for the stateless;[214] developing legislation and regulations which ensure every child's right to a nationality and that no child is born stateless in South Africa.[215]

Notes

[1] The stakeholders listed below have contributed information for this summary; the full texts of all original submissions are available at: www.ohchr.org.

Civil society

Individual submissions:

ADF International	ADF International, 1209, Geneva, Switzerland;
APCOF	African Policing Civilian Oversight Forum, Mowbray, Cape Town, South Africa;
CALS	Centre for Applied Legal Studies, Johannesburg, South Africa
CSVR	Centre for the Study of Violence and Reconciliation, Johannesburg, South Africa;
DOI	Dullah Omar Institute for Constitutional Law, Governance and Human Rights;
ERI	Edmund Rice International, Geneva, Switzerland;
FFF	Four Freedoms Forum, Kaneohe, United States of America;
GG	The Good Group, Honolulu, United States of America;
IND1893	Indigenous1893, Kaneohe, United States of America;
LRC	Legal Resources Centre, Johannesburg, South Africa;
OHR	Oceania Human Rights Hawaii, Kailua, United States of America;
SCCT	Scalabrini Centre of Cape Town, Cape Town, South Africa.

Joint submissions:

JS1	**Joint submission 1 submitted by:** International Bar Association's Human Rights Institute, The Law Society of South Africa (LSSA) The Southern Africa Litigation Centre (SALC), London, United Kingdom of Great Britain and Northern Ireland;
JS2	**Joint submission 2 submitted by:** Advocates for Human Rights, Camissa Movement for Equality and Kiersten Dunbar Chace of Mondé World Films, Minneapolis, United States of America;
JS3	**Joint submission 3 submitted by:** Transgender & Intersex Coalition-South Africa- Legal Resources Centre (LRC)Gender DynamiX (GDX)Iranti-org Aids and Rights Alliance for Southern Africa (ARASA), Cape Town, South Africa;
JS4	**Joint submission 4 submitted by:** Disability UPR Reporting Coalition South Africa-HR Education and Training for Empowerment (CREATE) Deaf Federation of South Africa (DeafSA) Parents for Children with Special Education Needs (PACSEN) Pathways – Khwf South African Disability Alliance (SADA) South African Federation for Mental Health (SAFMH), Cape Town, South Africa;
JS5	**Joint submission 5 submitted by:** The Sexual Rights Initiative-People Opposing Women Abuse (POWA), Sex Worker Education and Advocacy Taskforce (SWEAT), Sonke Gender Justice, WISH Associates, Coalition of African Lesbians, Sexual Rights Initiative, Ottawa, Canada;
JS6	**Joint submission 6 submitted by:** Shukumisa Campaign-Legal Resources Centre (LRC)Women's Legal Centre (WLC)Lawyers for Human Rights (LHR)Gender, Health & Justice Research Unit (GHRU) - University of Cape Town Cape Town, South Africa;
JS7	**Joint submission 7 submitted by:** Institute on Statelessness and Inclusion- Lawyers for Human Rights, Eindhoven, Netherlands;

[58]	**Joint submission 8 submitted by:** Detention Justice Forum, Sonke Gender Justice, Just Detention International – South Africa, SECRO, Civil Society Prison Reform Initiative, Centre for Applied Legal Studies, Footballers4Life, Zonk'izizwe Odds Development, Beyond the Bars, Scalabrini, SECTION27 and Egon Oswald Attorneys at Law, Cape Town, South Africa;
[59]	**Joint submission 9 submitted by:** Coalition for Rural Democracy - South Africa-Legal Resources Centre (LRC) Land and Accountability Research Centre – University Alliance for Rural Democracy (ARD), Cape Town, South Africa;
[510]	**Joint submission 10 submitted by:** Right to Food Coalition, Legal Resources Centre (LRC), Department of Environmental and Geographical Science, University of Cape Town, Cape Town, South Africa;
[511]	**Joint submission 11 submitted by:** Alternate Report Coalition-Children's Rights South Africa- Centre for Child Law, University of Pretoria Dullah Omar Institute - University of the Western Cape Legal Resources Centre Carol Bower, independent expert, Cape Town, South Africa;
[512]	**Joint submission 12 submitted by:** Don't Forget Marikana Coalition - South Africa, Legal Resources Centre (LRC) Bench Marks Foundation (BMF), Cape Town, South Africa;
[513]	**Joint submission 13 submitted by:** PEN South Africa and PEN Afrikaans, London WC1V 6ER, London, United Kingdom of Great Britain and Northern Ireland;
[514]	**Joint submission 14 submitted by:** Coalition of NGOs for UPR-South Africa Concerned About Human Rights Threats From Mining and Coal-Fired Power Generation- Centre for Environmental Rights Centre for Applied Legal Studies Earth justice ground Work South Durban Community Environmental Alliance Highveld Environmental Justice Network Vaal Environmental Justice Alliance, Cape Town, South Africa;
[515]	**Joint submission 15 submitted by:** Privacy International, Right2Know Campaign;
[516]	**Joint submission 16 submitted by:** CIVICUS: World Alliance for Citizen Participation, HURISA, Johannesburg, South Africa.

National human rights institution:

SAHRC	South African Human Rights Commission, Johannesburg, South Africa.

[1] For relevant recommendations see A/HRC/21/16, paras.124.1 (Iraq), 124.2 (United Kingdom), 124.3 (Hungary), 124.4(Brazil), 124.5 (Chad), 124.6 (Palestine), 124.7 (Slovenia), 124.8(Portugal), 124.9(France), 124.10 (Spain), 124.11 (Argentina), 124.12 (Nicaragua), 124.13 (Burkina Faso), 124.14 (Chad), 124.15 (Togo, Nicaragua, Hungary), 124.16 (Denmark), 124.17(Slovakia), 124.18 (Slovakia), 124.54 (Slovenia), 124.55(Czech Republic) and 124.57 (Costa Rica).

[2] SAHRC, para. 2.2.

[3] SAHRC, para.5.3. See also J511, para. 9.

[4] SAHRC, para.3.6.

[5] For relevant recommendations see A/HRC/21/16, paras. 124.26 (Chile) and 124.27 (Timor-Leste).

[6] SAHRC, para. 9.1.

[7] SAHRC, para. 9.2.

[8] For relevant recommendations see A/HRC/21/16, paras. 124.50 (Belgium), 124.51 (France), 124.78 (Argentina), 124.79 (New Zealand), 124.80 (Denmark), 124.81 (Netherlands), 124.82 (United

Kingdom of Great Britain and Northern Ireland), 124.83 (Canada), 124.84 (Austria), 124.85 (Finland), 124.86 (United States of America) and 124.87 (Belgium).

[10] SAHRC, para.4.3.

[11] For relevant recommendations see A/HRC/21/16, paras.124.38 (Islamic Republic of Iran), 124.39 (Paraguay), 124.41 (Thailand), 124.42 (Iraq), 124.43 (Ireland), 124.44 (Republic of Korea), 124.45 (Mozambique), 124.46 (Indonesia), 124.77 (Uruguay).

[12] SAHRC, para.3.1.

[13] SAHRC, para.3.3.

[14] SAHRC, para.3.5.

[15] For relevant recommendation see A/HRC/21/16, para. 124.88 (Mexico).

[16] SAHRC, para. 6.1.

[17] SAHRC, para.6.2.

[18] SAHRC, para.6.3.

[19] SAHRC, para.3.4.

[20] SAHRC, para.7.4.

[21] SAHRC, para.3.4.

[22] For relevant recommendations see A/HRC/21/16, paras.124.49 (Austria) and 124.93 (Switzerland).

[23] SAHRC, paras. 8.1-8.2.

[24] For relevant recommendations see A/HRC/21/16, paras. 124. 23 (Burkina Faso), 124.109 (Bolivarian Republic of Venezuela), 124.118 (Malaysia), 124.120 (Zimbabwe), 124.139 (Republic of Korea), 124.140 (Senegal), 124.141 (Cuba), 124.142 (Islamic Republic of Iran), 124.43 (Egypt), 124.144 (Singapore), and 124.145 (Timor-Leste).

[25] SAHRC, para.5.1.

[26] SAHRC, para.5.2.

[27] SAHRC, para.5.4.

[28] SAHRC, para.7.1.

[29] SAHRC, para.7.2.

[30] SAHRC, para.10.2.

[31] SAHRC, para.11.1.

[32] The following abbreviations are used in UPR documents:

ICERD	International Convention on the Elimination of All Forms of Racial Discrimination;
ICESCR	International Covenant on Economic, Social and Cultural Rights;
OP-ICESCR	Optional Protocol to ICESCR;
ICCPR	International Covenant on Civil and Political Rights;
ICCPR-OP 1	Optional Protocol to ICCPR;
ICCPR-OP 2	Second Optional Protocol to ICCPR, aiming at the abolition of the death penalty;
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women;
OP-CEDAW	Optional Protocol to CEDAW;
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
OP-CAT	Optional Protocol to CAT;
CRC	Convention on the Rights of the Child;
OP-CRC-AC	Optional Protocol to CRC on the involvement of children in armed conflict;
OP-CRC-SC	Optional Protocol to CRC on the sale of children, child prostitution and child pornography;
OP-CRC-IC	Optional Protocol to CRC on a communications procedure;
ICRMW	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families;
CRPD	Convention on the Rights of Persons with Disabilities;
OP-CRPD	Optional Protocol to CRPD;
ICPPED	International Convention for the Protection of All Persons

from Enforced Disappearance.

[33] For relevant recommendations see A/HRC/21/16, paras. 124.1-124.18, 124.54, 124.55, 124.57.
[34] FFF, p.3.
[35] APCOF, p.3, CSVR, p.3, JS1, p. 3, JS8, p.4.
[36] APCOF, p.3, See also CSVR, p.3.
[37] JS1, p.3, CSVR, p.5.
[38] JS1, p.3.
[39] CALS, p. 11, CSVR, p.5, JS1, p. 3, DOI, para.6.
[40] JS1, p. 3.
[41] JS7, para. 48, SCCT, p.5.
[42] IND1893, p.3.
[43] For relevant recommendations see A/HRC/21/16, paras. 124.26-124.28.
[44] JS16, para. 6.6.
[45] ERI, p. 8.
[46] OHR, p.3.
[47] JS11, para. 1.
[48] JS11, para.2. See also JS4, p.8.
[49] For relevant recommendations see A/HRC/21/16, paras. 124.22, 124.29-124.46, 124.50-124.51, 124.75-124.87, 124.150- 124.151.
[50] JS2, para. 6.
[51] JS2, paras.7-8.
[52] JS2, para. 10.
[53] JS2, paras.18-19.
[54] JS2, para. 4.
[55] JS1, para.5.2. See also SCCT, pp. 3-4.
[56] APCOF, p.3.
[57] JS1, para.5.3. See also SCCT, p.4.
[58] JS1, p. 8. See also SCCT, p.4 and CSVR, p.5.
[59] SCCT, p.4.
[60] JS11, para.5. See also DOI, paras. 8.2-8.5 and JS7, paras. 13-16.
[61] JS11, para.7. See also JS7, paras.12 and 19.
[62] DOI, para. 8.6. See also JS11, p. 4.
[63] JS3, para.5.
[64] JS3, para.17.
[65] JS3, para11.
[66] For relevant recommendations see A/HRC/21/16, paras. 124.111 and 124.119.
[67] JS12, p.3.
[68] JS12, p.3.
[69] JS14, para.6.
[70] JS14, para.40.
[71] JS14, para.10.
[72] JS14, para.17.
[73] JS14, para.17.
[74] JS14, para.59.
[75] JS14, para.8.
[76] For relevant recommendations see A/HRC/21/16, paras. 124.20, 124.52-124.58.
[77] LRC, para.18.
[78] LRC, paras. 19-21.See also JS12 p.6.
[79] LRC, para. 22.
[80] LRC, paras. 28.1.
[81] LRC, paras. 28.2.
[82] JS12 pp.6-7.
[83] For relevant recommendations see A/HRC/21/16, paras.124.20 (Cape Verde), 124.54 (Slovenia), 124.55 (Czech Republic), 124.56 (France), 124.57 (Costa Rica).
[84] APCOF, p.2.
[85] APCOF, pp.2-3.See also DOI, paras.2.4-2.8.

[86] APCOF, p.3.
[87] DOI, para. 2.1.
[88] CSVR, p.4.
[89] JS8, paras.1-2.
[90] JS8, para.5.
[91] DOI, para.3.
[92] JS5, p. 13.
[93] JS8, p.5.
[94] JS8, para.10. See also DOI, para. 2.9.
[95] JS8, para.11. See also DOI, para. 2.11.
[96] For relevant recommendations see A/HRC/21/16, paras. 124.21, 124.23, 124.25. 124.93-124.95, 124.110.
[97] JS1, para.3.3.
[98] JS1, p.4.
[99] JS4, p. 5.
[100] JS4, p. 5.
[101] For relevant recommendations see A/HRC/21/16, para. 124.95 (Norway).
[102] JS9, pp. 3 and 5-6.
[103] JS9, p. 11.
[104] CSVR, p.4.
[105] JS1, para .4.1.
[106] For relevant recommendations see A/HRC/21/16, paras. 124.97-124.107.
[107] LRC, para.12. See also JS15, para. 39.
[108] LRC, para.13.1.
[109] JS13, para. 31.
[110] JS13, paras. 23-25.
[111] LRC, para.16.1.
[112] JS16, para. 6.3.
[113] JS16, para. 6.2.
[114] JS16, para. 4.1. JS15, para. 50.
[115] LRC, para.5. See also JS13, para.15 and JS5 para 49.
[116] LRC, para.7.1.
[117] LRC, para.7.2. See also JS13, para.16 and p.8 and JS16, para. 6.3.
[118] JS13, para. 21. See also JS16, para. 4.4.
[119] JS13, para. 20.
[120] JS16, para. 4.4. See also JS13, p.9.
[121] LRC, para.8. See also JS15, para. 47.
[122] JS13, p. 9.
[123] JS16, para. 2.3.
[124] JS16, para. 5.1.
[125] JS16, paras. 5.2-5.4 and 6.4.
[126] JS16, para. 5.5.
[127] JS15, paras. 19-20.
[128] JS15, para. 52.
[129] JS15, para. 52.
[130] For relevant recommendations see A/HRC/21/16, paras. 124.21, 124.108-124.109.
[131] For relevant recommendations see A/HRC/21/16, paras. 124.109 (Bolivarian Republic of Venezuela); 124.119 (Côte d'Ivoire)
[132] JS10, p.1.
[133] For relevant recommendations see A/HRC/21/16, paras. 124.21, 124.109-124.111, 124.113-124.119, 124.121.
[134] CALS, para. 3.5.5.
[135] JS11, para. 4.
[136] JS10, p.1.
[137] For relevant recommendations see A/HRC/21/16, paras. 124.21 (Russian Federation).
[138] JS10, p.1.

[139] JS10, p.3.
[140] ERI, paras. 39-40.
[141] CALS, p. 11. See also ERI, para. 33.
[142] For relevant recommendations see A/HRC/21/16, paras. 124.21, 124.109, 124.118, 124.120, 124.122-124.141, 124.148.
[143] JS5, p. 11.
[144] JS5, p. 12.
[145] JS5, p. 16.
[146] For relevant recommendations see A/HRC/21/16, paras. 124.124 (Algeria), 124.126 (Germany), 124.127 (China), 124.132 (Iran (Islamic Republic of)), 124.137 (Sri Lanka), 124.141 (Cuba).
[147] DOI, para. 7.1.
[148] DOI, para. 7.2.
[149] ADF, para. 8.
[150] JS11, pp. 6-7.
[151] JS11, p. 6.
[152] JS5, p. 4.
[153] JS5, p. 14.
[154] JS5, p. 16.
[155] JS3, para. 37.
[156] For relevant recommendations see A/HRC/21/16, paras. 124.148 (Germany).
[157] SCCT p. 5.
[158] SCCT p. 6.
[159] For relevant recommendations see A/HRC/21/16, paras. 124.21, 124.23, 124.120, 124.140-124.145.
[160] ERI, para.22.
[161] ERI, para.23.
[162] ERI, para.24.
[163] ERI, para.19.
[164] ERI, para.21.
[165] ERI, para.32. See also JS11, para. 15.
[166] JS11, p.8.
[167] GG, p.2.
[168] CSVR, p.4.
[169] CSVR, p.5.
[170] For relevant recommendations see A/HRC/21/16, paras.124.20, 124.24, 124.47-124.49, 124.53, 124.59-124.74.
[171] For relevant recommendations see A/HRC/21/16, para.124.48 (Australia).
[172] DOI, para.4.3.
[173] DOI, para.4.4.
[174] JS5, p. 7.
[175] CSVR, p.2.
[176] ERI, para.10.
[177] JS5, p. 9.
[178] For relevant recommendations see A/HRC/21/16, paras.124.65 (Nicaragua), 124.67 (Sweden), 124.68 (Norway), 124.74 (Spain).
[179] JS6, pp.7-8.
[180] ERI, para.9.
[181] For relevant recommendations see A/HRC/21/16, paras. 124.64(Norway), 124.68(Norway), 124.70 (Portugal), 124.71 (Slovakia).
[182] JS6, pp. 3-4.
[183] ERI, para.8.
[184] DOI, para.5.3.
[185] JS6, pp.12-13.
[186] CSVR, p.2. See also DOI, para.5.4.
[187] JS5, p. 14.
[188] For relevant recommendation see A/HRC/21/16, para.124.62 (Austria).
[189] ERI, para.18.

[190] JS5, p. 9. See also JS6, para. 5.1.
[191] JS5, p. 15.
[192] JS6, p. 7.See also JS5. p.15.
[193] JS6, p. 12.
[194] For relevant recommendations see A/HRC/21/16, paras. 124.20, 124.24, 124.53, 124.61, 124.88, 124.111, 124.126.
[195] JS6, p.11. See also CSVR, p.2.
[196] JS11, p. 12. See also CSVR, p.2.
[197] JS11, para. 18.
[198] JS11, para. 21.
[199] JS11, p.11.
[200] For relevant recommendations see A/HRC/21/16, paras. 124.111-124.112.
[201] For relevant recommendations see A/HRC/21/16, paras. 124.112(Djibouti).
[202] JS4, pp. 4-5.
[203] JS4, p. 8.
[204] JS11, pp.12-13.
[205] JS4, p. 6.
[206] For relevant recommendations see A/HRC/21/16, paras. 124.38-124.46, 124.58, 124.146- 124.151.
[207] CSVR, p.5.
[208] SCCT, pp. 2-3.
[209] SCCT, p.1. See also ERI, para. 35.
[210] SCCT, p.2.
[211] ERI, para.38.
[212] For relevant recommendations see A/HRC/21/16, paras. 124.150-124.151.
[213] JS7, para. 39. See also SCCT, p.4.
[214] JS7, para. 48. See also SCCT, p.5.
[215] JS7, para. 48.